

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

CrI.MC.No. 3492 of 2007()

CC.333/2006 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI

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PETITIONER: ACCUSED:

1. JOBY PAUL, S/O. PAUL C.O.,
CHEMMAYATH HOUSE, MANADU PARAMBU, NAYARAMBALAM P.O.
NAYARAMBALAM VILLAGE.
2. PAUL C.O.,
CHEMMAYATH HOUSE, MANADU PARAMBU, NAYARAMBALAM P.O.
NAYARAMBALAM VILLAGE.
3. BEEN JOSE, W/O. C.JOSE,
CHEMMAYATH HOUSE, MANADU PARAMBU, NAYARAMBALAM P.O.
NAYARAMBALAM VILLAGE.
4. DAISY JAMES, W/O. JAMES,
PANAKKEL HOUSE, PRABHOOS ROAD, PERUMBILLY KARA,
NJARAKKAL P.O.
5. DARLY JOSE, W/O. JOSEPH,
KONNULLY HOUSE, RESIDING AT UPSTAIRS OF PALACHRA
JEWELLERY, THOPPUMPADY JUNCTION, THOPPUMPADY.

BY ADV. SRI.P.R.JAYAKRISHNAN

RESPONDENTS: STATE AND COMPLAINANT:

1. STATE OF KERALA (REP. BY SUB INSPECTOR
OF POLICE, NJARAKKAL POLICE STATION -
CRIME NO.455/2005 OF NJARAKKAL POLICE STATION),
REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT
OF KERALA, ERNAKULAM.
2. SMITHA, D/O. THOMAS,
KULANGARA HOUSE, MALIPPURAM P.O.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU
ADVOCATE SRI.K.A.JALEEL FOR R2

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3492 of 2007

Dated this the 22nd day of November 2007

O R D E R

The petitioners face indictment in a prosecution for the offence punishable under Section 498A I.P.C. They are the husband of the second respondent/ de facto complainant and his relatives. Cognizance has been taken on the basis of a final report submitted by the police after due investigation. The petitioners face allegations under Section 498A I.P.C.

2. The petitioners and the second respondent have come before this court now to report to the court that the disputes between them have been settled amicably. The second respondent has compounded the offence allegedly committed by the petitioners against her. She has filed an affidavit duly attested by her counsel. Her counsel confirms that the matter has been settled. First petitioner and the second respondent have now been divorced also.

3. I am satisfied from the submissions made at the Bar and the joint statement filed by the rival contestants duly countersigned by their respective counsel that the dispute have been settled willingly and voluntarily and the second respondent has compounded the offence allegedly committed by the petitioners. If legally permissible, I am satisfied that the

composition can be accepted and premature termination of the proceedings can be brought about. But the offence under Section 498A I.P.C is not legally compoundable under Section 320 Cr.P.C. The learned counsel for the contestants, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the respondents by the petitioner brought to premature termination.

4. In the result, this petition is allowed. C.C No.333/2006 pending before the J.F.M.C.I, Kochi and all further proceedings taken in pursuance of the same against the petitioners is hereby quashed.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007